

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**In Re: ADA Cases**

**Case No: 6:18-mc-14-Orl-31DCI**

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**REPORT AND RECOMMENDATION**

This case commenced because several attorneys failed to comply with the Federal Rules of Civil Procedure, the Local Rules, and the Court's Orders. The matter was initially referred to the undersigned for the issuance of a report recommending what, if any, actions should be taken against the attorneys for their noncompliance. On November 13, 2018, the undersigned recommended that the Court admonish Thomas B. Bacon, Alfredo Miguel Garcia-Menocal, Mario Elias Lopez, and Anthony J. Perez. Doc. 46 at 21. In relevant part, the undersigned recommended that:

For a period of 12 months following the Court's ruling on this Report, Thomas B. Bacon, Michael Christine, Philip M. Cullen, III, Christine N. Failey, Alfredo Miguel Garcia-Menocal, William T. Leveille, II, Mario Elias Lopez, Anthony J. Perez, Joshua Howard Sheskin, and Rafael Viego, III, be required to file a notice in this case (*In re ADA Cases*, 6:18-mc-14) each time a judge in this Division enters an order against them or their client that does any of the following based in whole or in part on a failure to comply with the Federal Rules of Civil Procedure, the Local Rules, or an order of the court: requires them or their client to show cause; strikes a filing; denies a motion; or dismisses a complaint or any claim therein.

Doc. 46 at 20-21, ¶ V(2)

In two separate Orders dated January 29, 2019 and an Order dated March 19, 2019, the Court directed the attorneys to comply with the reporting requirements in paragraph V(2) of the Report and Recommendation. Docs. 55, 56, 59. The Court subsequently issued an Order directing the undersigned to conduct a review of the notices filed in this case as of March 20, 2020 and

submit another Report and Recommendation as to whether any further action should be taken in this case. Doc. 60.

Notices have been filed in the case and the undersigned has conducted a review. Specifically, Attorney Cullen filed a notice on August 14, 2019, regarding two cases (8:19-cv-1854-VCM-SPF, 8:19-cv-1852) filed in the Tampa Division of this Court that were transferred to the Southern District of Florida. Doc. 63. Attorney Cullen filed another notice on November 13, 2019, reporting that a District Judge in this Division struck a notice for which he was “solely responsible, resubmitting a proposed final judgment based on non-compliance with the Local Rules, *Kennedy v. Schling, LLC, et. al.* 6:17-cv-2157661 – [D.E. 98].” Doc. 64. The docket also reflects that Attorney Lopez filed a declaration confirming that all of his ADA cases have been resolved and “that neither [he] nor any other FLA attorney will file any other ADA case in the Middle District of Florida within one year from the date of the Court’s Order [D.E. 55].” Doc. 58.

Pursuant to the Court’s Order, the undersigned has reviewed these notices, the declaration, and the attorneys’ activity in CM/ECF.<sup>1</sup> It appears that the attorneys have complied with the Court’s Order and the undersigned has found nothing to warrant an extension of the reporting requirement or continued oversight.

Accordingly, it is respectfully **RECOMMENDED** that the Court close this matter.

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<sup>1</sup> The undersigned notes that case number 6:17-cv-1016 was dismissed on February 21, 2019. While Attorney Michael Christine did not report the dismissal, the Court’s Order provides that Mr. Christine will be relieved of any oversight requirements once his three cases were closed. Doc. 55 at 2 n. 2. The February 21, 2019 dismissal closed the last pending case. Further, the Court’s Order adopting the undersigned’s Report and Recommendation states that the monitoring requirement will terminate upon Attorney Lopez’s filing of a declaration confirming that all of his ADA cases have been resolved. Doc. 55 at 2. Mr. Lopez was also counsel of record on 6:17-cv-1016 and he filed his declaration in the instant matter on February 26, 2019, reporting the resolution of his ADA cases. Doc. 58.

### **NOTICE TO PARTIES**

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

Recommended in Orlando, Florida on March 27, 2020.

  
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DANIEL C. IRICK  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy